

JUL 28 1978

MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE
Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1177

AUBREY SCOTT,

Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

**On Writ Of Certiorari To The
Supreme Court Of Illinois**

PETITION FOR CERTIORARI FILED FEBRUARY 21, 1978
CERTIORARI GRANTED MAY 30, 1978

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* At Page 6a of Petition for Writ of Certiorari. The opinion is also reported at 36 Ill. App. 3d 304, 343 N.E. 2d 517 (1976).

** At Page 1a of Petition for Writ of Certiorari. The opinion is also reported at 68 Ill. 2d 269, 369 N.E. 2d 881 (1977).

APPENDIX

RELEVANT DOCKET ENTRIES

IN PEOPLE OF THE STATE OF ILLINOIS v. AUBREY
SCOTT, CIRCUIT COURT OF COOK COUNTY,
ILLINOIS, MUNICIPAL DEPARTMENT, FIRST DISTRICT
(72 MC1 839456)

Page of Record	Date	Item
RC 3	1-20-73 (sic)	Cash deposit bail bond
RC 5	1-21-72	Complaint
RC 6-7	1-31-72	Court Clerk's narrative of proceedings
RC 9	2-29-72	Notice of Appeal
RC 20	4-27-72	Grant of petitioner's mo- tion for leave to defend as a poor person
R 1-10	1-31-72	Report of proceedings in trial of petitioner

COMPLAINT IN THE MATTER OF PEOPLE v. SCOTT

STATE OF ILLINOIS
COUNTY OF COOK—SS

THE CIRCUIT COURT
OF COOK COUNTY

The People of the State of Illinois

Plaintiff

vs.

Aubrey Scott

Defendant

No.

72 MC1 J839456

COMPLAINT

William Brady, complainant, now appears before The
Circuit Court of Cook County and in the name and by the

authority of the People of the State of Illinois states that Aubrey Scott has, on or about 19 January 1971 at F.W. Woolworth 211 S. State committed the offense of Theft in that he Knowingly (obtained) or (exerted) unauthorized control over property sample case and address book total \$13.68 of the value of \$150.00 or less, the property of F.W. Woolworths' with the intent to deprive F.W. Woolworths permanently of the use and benefit of said property in violation of Chapter 38 Section 16-1(A)(1) Illinois Revised Statute and against the peace and dignity of the People of the State of Illinois.

/s/ William Brady
211 S. State HA7-4473

FILED
MUNICIPAL COURT OF CHICAGO
FIRST MUNICIPAL DISTRICT OF
CIRCUIT COURT, COOK COUNTY
JAN 21 1972

William Brady, being duly sworn, on his oath, deposes and says that he has read the foregoing complaint by him subscribed and that the same is true.

/s/ William Brady

Subscribed and sworn to before me

Matthew J. Danaher
Clerk of Court

I have examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that there is probably cause for filing the same. Leave is given to file said complaint.

.....
(Judge's signature illegible)

COURT CLERK'S NARRATIVE OF PROCEEDINGS

Be It Remembered, that afterwards, to-wit: on the 31st day of January, 1972, the following among other proceedings were had and entered of record in said court which proceedings were and are in words and figures following, to-wit:

Present Honorable Maurice W. Lee
One of the Judges of the Court
Edward V. Hanrahan, State's Attorney
Richard J. Elrod, Sheriff
Matthew J. Danaher, Clerk

THE PEOPLE OF THE STATE OF
ILLINOIS

v.

AUBREY SCOTT

} No. 72-MC-J839456
Criminal

Now comes, William Brady, and in the name of the People of the State of Illinois presents to the Court the Complaint herein under oath, and moves the Court that leave be granted to file said Complaint, and the presiding

Judge of this Court having examined said Complaint, and having examined under oath the person presenting the same, and having heard evidence thereon, and being satisfied that there is probable cause for filing the same, and said Judge, having so endorsed the same and the Court being fully advised in the premises, it is ordered that leave be and hereby is granted to file said Complaint instanter.

And it appearing to the Court that the Defendant herein was arrested without warrant, capias, or other writ, and is now here present in open Court, the Court takes jurisdiction of the person of said Defendant, and the Sheriff of this Court is ordered forthwith to take the body of said Defendant into his custody and said body safely keep so that said Sheriff may have the same before this Court to answer to the Plaintiff for and concerning the offense charged in said Complaint, and this order shall be sufficient warrant of said Sheriff for so doing.

Now come the people by the State's Attorney and the Defendant as well in his own proper person and said Defendant being duly arraigned and forthwith demanded of and concerning the charge alleged against him in the complaint herein how he will acquit himself thereof for a plea in that behalf, says that he is not guilty in manner and form as charged in said complaint.

Said Defendant being duly advised by the Court as to his right to a trial by jury in this cause, elects to waive a trial by jury, and this cause is by agreement in open Court between the parties hereto, submitted to the Court for a trial without a jury.

The people being now here represented by the State's Attorney and said Defendant being present in his own proper person and the trial of this cause is now here entered upon before the Court without a jury and the Court, after hearing all the testimony of the witnesses and the arguments of counsel, and being fully advised in the premises, renders the following finding, to-wit:

"THE COURT FINDS THE DEFENDANT GUILTY IN MANNER AND FORM AS CHARGED IN THE COMPLAINT HEREIN. WHEREFORE IT IS ORDERED THAT THE SAME BE ENTERED OF RECORD HEREIN."

The State's Attorney now here moves the Court for final judgment on the finding of guilty herein, said people being represented here by the State's Attorney and said Defendant being present in his own proper person and not saying anything further why the judgment of the Court should not now be pronounced against him on the finding of guilty entered in this cause, the Court finds that it has jurisdiction of the subject matter of this cause and of the parties hereto, and it is considered and adjudged by the Court that said Defendant is guilty of the criminal offense of VIOLATION OF CHAPTER 38 SECTION 16 - (A) (1) (THEFT) on said finding of guilty.

Now come the people by the State's Attorney and the Defendant as well in his own proper person and it appearing that the Defendant has been convicted in this cause, a fine is assessed against said Defendant in the sum of FIFTY DOLLARS (\$50.00).

Judgment for Fine satisfied by payment of FIFTY DOLLARS (\$50.00) on JANUARY 31, 1972, deducted from Cash Bond D7224338.

REPORT OF TRIAL PROCEEDINGS
IN THE MUNICIPAL COURT OF CHICAGO
FIRST MUNICIPAL DISTRICT

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff

vs.

AUBREY SCOTT,

Defendant

No. 72MC 839456

REPORT OF PROCEEDINGS at the hearing of the above-entitled cause before the Honorable MAURICE W. LEE, one of the Judges of the said Court, on the 31st day of January, 1972.

Appearances:

Hon. Edward V. Hanrahan
State's Attorney, by
Mr. Sam Grossman,
Assistant State's Attorney,
appeared on behalf of the People

The Clerk: Sheet 1, Line 24; Aubrey Scott; William Bray.

The Court: Who are you?

Mr. Scott: Scott.

The Court: You are charged with the offense of theft

Mr. Scott: Well, your Honor, that isn't true.

The Court: I said you are charged with it.

My next inquiry is are you going to be ready for trial?

Mr. Scott: Am I ready?

The Court: Yes.

Mr. Scott: I am ready for trial.

The Court: Is the State ready?

Mr. Grossman: State is ready.

The Court: Arraign the defendant, please.

The Clerk: You are charged with the offense of theft. Are you ready for trial?

Mr. Scott: Yes, I am.

The Clerk: How do you plead to the charge?

Mr. Scott: Not guilty.

The Clerk: Do you want to be tried by this Court or before a jury?

Mr. Scott: Well, it doesn't matter. Right here will be okay with me.

(Witnesses sworn)

The Court: Has he got something that will expedite the case, Mr. Grossman?

Show it to him.

Nothing he offered so far?

Mr. Grossman: That is all evidence of something that happened.

WILLIAM BRAY, called as a witness on behalf of the People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Grossman

Q. For the record, what is your name?

A. William Bray.

Q. Where are you employed?

A. S. W. Woolworth, 211 South State; Security Guard.

Q. Calling your attention to the 19th of January '71, at S. W. Woolworth in the City of Chicago, were you on duty?

A. Yes.

Q. Did you have occasion to see one Aubrey Scott, and I indicate the defendant on the right, for the record?

A. Yes, I did.

Q. Where did you see him?

A. Mr. Scott approached one of the sales girls and asked her to unlock some of the attache cases we have locked up. She did so, and Mr. Scott walked around the store fifteen or twenty minutes, I believe, with a ten dollar bill in his hand, and by the sales girls, back and forth,

and kept walking around and picked up an address book and put it in his pocket.

And then, after watching Mr. Scott another five minutes, I walked out on State Street, and a few minutes later, Mr. Scott walked out with the attache case.

Q. What time of day was it?

A. I believe it was about six in the afternoon.

Q. What did you do when you saw him with the case?

A. I identified myself and ordered Mr. Scott to go back into the store.

Q. And did you ask him if he had a receipt for it?

A. Mr. Scott said it belonged to him.

Mr. Scott had put a number of articles, including the one he has here, inside of the case prior to walking out of the store.

Q. Is this the case you saw him with (indicating)?

A. Yes.

Q. Whose property is it?

A. S. W. Woolworth.

Q. What is the value of the case?

A. I believe there is a tag which would indicate the value as twelve ninety-nine.

Q. All that took place in the City of Chicago, County of Cook, State of Illinois?

A. Yes.

Mr. Grossman: State offers this as People's Exhibit 1.
(Witness excused)

The Court: People rest?

Mr. Grossman: People rest.

The Court: What do you wish to say?

Mr. Scott: I had taken my things out to put in there to see if it would fit, and then I walked around looking for the girl, which I couldn't find, and I am partially blind and I was constantly looking for her. And all of a sudden, I don't know where he come from, he grabbed me by the wrist and says, "You are a shoplifter."

I said "I know I came to buy a case," and I showed him I had money to buy what I want. And so I showed him I had money to buy. And then some other fellow

who does the same type of work, he was behind and pushed me and grabbed me by the hand and tell me, "I should take you down and beat your so-and-so."

And I said, "For what? I haven't done anything. I had money to pay for whatever I am buying."

So then the police come and put my arms behind me and handcuffed me and took me to jail.

And naturally I wouldn't buy the briefcase. I had to find out whether it fit my articles. That was the point in putting my articles in it. After it fit, I said, "Good. That is what I like." And I went to look for the girl.

Mr. Grossman: We will rest on the State's case.

The Court: There's a lot of questions I want to know.

Mr. Grossman: Ask them.

The Court: Why don't you ask them? Are you going to leave it right there?

Mr. Grossman: We feel we have made our case.

The Court: Where did he get stopped?

Mr. Grossman: He testified he was coming out of the store.

The Court: He indicates he got stopped in the store. He indicates that he wanted to try it out for size; indicated he had money. Next question is how much money. What did he do with the money? Did he ever offer money to anybody? Did he ever see a sales clerk?

Mr. Scott: I had almost \$300 in my pocket. I was looking for the girl because she didn't have what you would call a counter that you work behind. She stands out near the counter, and I didn't see her.

The Court: Where did you get arrested, sir?

Mr. Scott: Where was I? Inside of the store.

The Court: You weren't on State Street?

Mr. Scott: On State Street? Inside of the store.

The Court: But you weren't on the street?

Mr. Scott: No. I didn't go out on the street.

The Court: When you were arrested?

Mr. Scott: When this man come in the door—I am inside. He comes in the door and grabs me by my wrist like this (indicating), and said, "You are a shoplifter."

I said, "I am not. I am looking for the sales girl."

The Court: He said he observed you a long time walking around the store with a ten dollar bill in your hand.

Mr. Scott: I was looking for the girl.

The Court: What were you going to buy?

Mr. Scott: I was going to pay the girl.

The Court: What were you going to buy with the ten dollar bill?

Mr. Scott: More, if she said it. I had it to pay.

The Court: I don't believe you, sir. Finding of guilt.

What do you have in aggravation?

The Court Sergeant: Most recently, it is 1957.

The Court: What?

The Court Sergeant: Thirty days, House of Correction, petty larceny, Judge Slater.

Mr. Scott: That's been 13 years, and I promised I would never go back to no jail, and I was not guilty of trying to make a theft.

Mr. Grossman: We recommend probation.

The Court: Fifty and no costs.

(which was all of the testimony given and proceedings had in the above entitled cause in Branch 41 of the Municipal Division of the Circuit Court of Cook County, on January 31, 1972.)
